

MINUTES
Montana Fish, Wildlife & Parks Commission Meeting
1420 East 6th Avenue – Helena Headquarters
Helena, MT 59620
FEBRUARY 13, 2007

Commission Members Present: Steve Doherty, Chairman; Shane Colton; Vic Workman; Dan Vermillion; Willie Doll.

Fish, Wildlife & Parks Staff Present: Jeff Hagener, Director, and FWP Staff.

Guests: See February 13, 2007 Commission file folder for those who signed in.

8am – 10:49am - A Work Session preceded this meeting to discuss Sage Brush Landowner Incentive Plan Program, Require Mandatory Reporting of Previous Years Hunting Harvest before Purchasing Licenses for the New Year and Wolf Delisting – process to allow hunting and trapping.

Topics of Discussion:

1. Opening - Pledge of Allegiance
2. Approval of December 14, 2006 Commission Meeting Minutes
3. Approval of December 20, 2006 Conference Call Meeting Minutes
4. Approval of January 12, 2007 Conference Call Meeting Minutes
5. Update on Tribal Bison Hunt
6. Language Revision in Dutchman Wetlands Section of September, 2006 Minutes
7. Approval of Commission Expenses through January 31, 2007
8. Election of Vice-Chairman of Commission
9. Establish Regional Locations for 2007 Commission Meetings
10. Clarification of Public Comment Opportunities at Commission Meetings - Final
11. Recognition Award to Alan Charles for 10-Years of Service to FWP
12. Recognition of Charlie Sperry, Becky Dockter, and Becky Price for Commercial Use Rules Efforts
13. Legislative and Budget Update - Informational
14. 2007 Spring Turkey Regulations and Quotas – Final
15. 2007 Black Bear Quotas – Final
16. 2007 Mule Deer Season Adjustments Due to Forest Fires – Final
17. 2007 Bighorn Sheep HD340 Closure - Final
18. 2007 Game Damage Permit Authorizations – Final
19. German Gulch Land Acquisition adjacent to Fleecer WMA – Endorsement
20. Keep Cool Hills Management Area near Lincoln (Sieben Ranch) - Tentative
21. Timber Management Projects – Lone Pine and West Shore State Parks
22. Lewis & Clark Heritage Greenway Conservation Easement at Giant Springs – Final
23. Ulm Pishkun Easement – Final
24. Clarkstone FAS Acquisition near Laurel – Endorsement
25. Sterling Ranch FAS Lease between Holter Dam and Craig – Endorsement
26. Kona Bridge FAS Lease / Development West of Missoula – Endorsement
27. Old Harper's Bridge FAS Acquisition West of Missoula – Endorsement
28. Dearborn Bridge FAS Lease On Missouri River in L&C County – Endorsement
29. DNRC Fishing Access Site Lease between Cascade and Ulm - Endorsement
30. Open Microphone – Public Opportunity to Address Additional FWP Issues

1. Opening - Pledge of Allegiance. Chairman Doherty called the meeting to order at 11:00 a.m. and led the Pledge of Allegiance.

2. Approval of December 14, 2006 Commission Meeting Minutes.

3. Approval of December 20, 2006 Conference Call Meeting Minutes.

4. Approval of January 12, 2007 Conference Call Meeting Minutes.

Action: Workman moved and Colton seconded the motion to approve the minutes of the December 14, 2006 Commission Meeting, the December 20, 2006 Conference Call Meeting, and the January 12, 2007 Conference Call Meeting. Motion carried.

5. Update on Tribal Bison Hunt. Chris Smith, FWP Chief of Staff, presented the up-to-date information on the Nez Perce bison hunt. A detailed discussion was held on the legal sideboards of what the FWP Commission can and cannot do.

Colton said the Department needs to convey to the Nez Perce Tribe the conservation concerns and public safety concerns, and somehow get response back from them.

Vermillion said that although the letter from the Nez Perce Tribe in January was alarming, the meeting in Idaho seemed to afford opportunities for working together toward establishing parameters of what is acceptable. It would be of benefit to try to work with them from a negotiation standpoint rather than a confrontational standpoint.

Colton added that an understanding of the Nez Perce Tribal game laws needs to be developed because that understanding is necessary if there will be an imposition of penalties and prosecutions. The Tribe needs to understand the regulations in order to come to terms with what can be enforced and prosecuted. FWP needs to send a letter to the Nez Perce to make it clear that the seasons for these animals are closed because the quotas have been reached and not to shoot them. There is clearly a segment of members who do not want to comply.

Quentin Kujula, FWP Wildlife Division Management Bureau Chief, said he received a voice message from the Tribe requesting FWP's Sheep Management Plan as it applies to the relevant areas that are the focus of this hunt.

Kurt Alt, FWP Region 3 Wildlife Manager, stated that when he talked with the Nez Perce Natural Resource staff and Tribal Fish and Game Council members, they discussed sharing information. He is in the process of compiling data to provide them with justifications and an update on the permits for the various species.

Hagener said it is important to remember that this does not just concern the Yellowstone Ecosystem. The Nez Perce have stated that their rights are for all open and unclaimed lands, which could be interpreted to include the Sun River and Missouri River Breaks.

Doherty said that will be highly dependent on historical practices. The Nez Perce were at the Big Hole, because Lewis & Clark met them there, but their crossing the Sun River into Blackfoot territory in the 1850s for use as a common hunting ground is unlikely.

Alt said he will be compiling information for the whole region, and suggested that Missoula do the same, as they are looking at that area also. The Confederated Salish & Kootenai have harvested moose in the Bighole, which is also of concern.

Doherty said FWP, the Nez Perce Tribe, and the Confederated Salish & Kootenai Tribes need to conduct a side-by-side comparison of the hunting regulations. The CS&KT are very careful and very specific in the writing and adoption of their regulations – their standard would be beneficial for use in the comparison process. The Attorney General's Office has provided that the conservation of species and public safety concerns can legally be regulated. Doherty said he wants to see something in place before the next hunting season, and asked that the CS&KT definitely be involved, as whatever negotiations are struck with the Nez Perce, the CS&KT will be very interested in as well.

Hagener asked if the Commission would like FWP to take some kind of action to make it very clear what is acceptable for the remainder of this season. He asked what the Commission wants as far as arranging future meetings, and asked if the whole Commission wants to be involved.

Doherty said Chairman Steele of the Confederated Salish & Kootenai Tribe told him they are extremely interested in what is going on, and wish to maintain good government-to-government relationships. They do not want anyone upsetting what has been a good relationship between CS&KT and FWP.

Workman asked Colton if he would be interested in representing the Commission on this issue since he has already been involved, and because of his legal experience. He said the Commission needs a voice in the face-to-face negotiations.

Colton replied that he is willing, but would need to request that the Governor remove him from the PL/PW Council to help lighten his load. He is willing to attend the next Nez Perce meeting that is tentatively to be held in Missoula.

Action: Workman moved and Vermillion seconded the motion to nominate Commissioner Colton to be the FWP Commission representative in the dealings with the CS&KT and Nez Perce tribes concerning our hopefully ongoing negotiations concerning their hunting rights, et. al to be discussed further. Motion carried.

Workman moved and Colton seconded the motion that Commissioner Colton and FWP staff go forward with negotiations, and indicate to both entities that we realize and respect their hunting rights via the treaty of 1855, however, we respectfully request that until we can educate them and they can educate us that they refrain from taking any species other than bison in what's left of this season so that we can try to come to some firm understandings and hopefully a consensus.

Discussion on Motion:

Colton said it seems logical that FWP inform the Tribe that they must not shoot any other species at this point because they haven't proven their treaty rights on other species. Since they already shot an elk, will a citation be issued? The impression is that they will continue to shoot elk, and they may continue to shoot elk even if told not to. There needs to be a course of action in place. If they look like they will coordinate with FWP, and the Department allows some leeway to show good faith, hopefully they will reciprocate. If they don't, then FWP needs some options.

Sam Sheppard, FWP Warden Captain, believes it is a good course of action to broach the termination of hunting as a request. He reminded the Commission that there currently is a general elk season in that area for five weeks, plus there are 100 late cow permits and a number of late bull permits. If the tribe respectfully declines to stop harvesting elk, enforcement is not forced to choose whether or not to write a citation. He feels issuing citations would impair negotiations.

Alt said he gave the Nez Perce a rundown of the populations in the Yellowstone area. Three hunting districts are already closed to sheep hunting, two are open on a very limited basis, and there is a very strong concern over populations. The Nez Perce responded that they do not want to harm the sheep population status. He explained that the 75-85% decline in Moose permit levels since 1989 is still due to the fires in the Yellowstone system, and FWP is concerned with Moose populations, and would be concerned about additional harvest. The Nez Perce didn't seem interested in Mountain Goats. Antelope are down to 250, and there is no hunting season on them. When they come out of the Park they are usually on private land. They said there are a lot of antelope between Idaho and the Yellowstone system, and they want a better understanding of where those antelope were and what the land configuration was. They agreed not to exercise those opportunities until they heard back from FWP.

Amendment to Motion: Colton amended the motion to state in the letter to be sent by FWP, that we renew our request for justification for the incidental species, tying it to historical data. As we move forward, we have an obligation as a Commission to make sure that while we are respectful of the treaty rights, it is not Carte blanche, and there has to be some proving of historical areas and species. Workman accepted the amendment to his motion.

Action on Motion: Motion carried.

6. Language Revision in Dutchman Wetlands Acquisition Section of September, 2006 Minutes.

Hagener explained that this five-word modification to the September minutes reflects the exact wording of the covenants. The September Commission meeting minutes read: "Capdeville said 'we have covenants not to sue, and indemnification that if a party sues FWP, ARCO has committed to pay.'" The suggested modification would read: "Capdeville said: 'we have covenants not to sue, and indemnification that if a party sues FWP for acts of ARCO employees, ARCO has committed to pay.'"

Action: Colton moved and Workman seconded the motion to accept the clarification to the September, 2006 Minutes. Motion carried.

7. Approval of Commission Expenses through January 31, 2007.

Action: Workman moved and Colton seconded the motion to approve the Commission expenses as presented. Motion carried.

8. Election of Vice-Chairman of Commission.

Action: Workman moved and Vermillion seconded the motion to nominate Shane Colton as the new Vice-Chair of the FWP Commission. Motion carried. Four in favor – one opposed. (Colton opposed).

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Hagener noted that there are committee seats now left vacant by John Brenden and Tim Mulligan. Brenden served as the representative on the Variable Priced License Committee. That committee meets in July or August, so a new representative needs appointed by June. Mulligan served on the TIPMONT Board, which meets twice a year. That group reviews the calls to see if any monetary awards need to be issued, and a replacement needs to be appointed by the next Commission meeting.

Colton serves on the Private Land/Public Wildlife (PL/PW) Council, which is a position appointed by the Governor. Colton's term expires in June.

Workman serves on the Alternative Livestock Committee, and stated he wishes to retain this committee assignment.

Colton stated that the PL/PW Council is a very important committee, and although rewarding, it is very time consuming with the meetings spanning two days.

Doherty stated that if Vermillion or Doll and want to volunteer for a preferred committee, it can be arranged by the next meeting.

**9. Establish Regional Locations for 2007 Commission Meetings.** Doherty explained that although most Commission meetings are held in Helena, it is important to meet regionally to allow the public an opportunity to attend meetings that they may not otherwise be able to because of travel constraints, and to enable the Commissioners to observe regional field projects. The standard has been to alternate regional meetings from year to year. The Commission met in Regions 1, 2 and 7 in 2006, so the recommendation was to hold the 2007 meetings in Regions other than those three. The following locations were decided upon:

June 14 – Columbus (the Stillwater Mine has a meeting room)

July 19 - Dillon

October 25 - Havre

Due to a conflict on May 24, the May meeting was changed to May 17.

*Action: Colton moved and Workman seconded the motion to schedule the meetings outside Helena as follows: June 14 in Columbus; July 19 in Dillon; and October 25 in Havre. The May 24 meeting was rescheduled to May 17 in Helena.*

Chairman Doherty asked for public comment. There was none.

*Action on Motion: Motion carried.*

**10. Clarification of Public Comment Opportunities at Commission Meetings – Final.** Chris Smith, FWP Chief of Staff, stated that one complicated aspect of Commission meetings deals with the public comment process. In an effort to make the process as equitable and as efficient as possible, the Commission and Department developed a policy on when and how public comment would be received at Commission meetings.

Typically, the process that has proven to work best is for the Department to provide background information and offer a brief synopsis of the agenda topic, then propose recommendations to the Commission who then accepts public comment. The Commissioners then enter into their deliberative phase and take executive action. Under this policy, this process would become the standard.

The exception to this process would be when the Commission makes final decisions on fishing, hunting and trapping regulations because there is already substantial public involvement when setting those regulations. Hunting, trapping and fishing regulation changes are generated by comments and suggestions from the public, and through internal Department discussions. Recommendations are brought to the Commission as tentative proposals, where typically the Commission accepts public comment. These tentative regulations then go out for a formal public comment period where anywhere from 30 to 50 statewide public meetings are held, and written comments are accepted as well. FWP then summarizes the comments and provides the information to the Commission.

There has been some public concern that comments accepted at Commission meetings when setting finals will have an unfair advantage over those who cannot attend the meeting to weigh in on

decisions. Therefore, the Commission has tentatively adopted a policy that comment periods will end at a pre-established date prior to meetings where final decisions will be made on hunting, fishing and trapping regulations. No comments will be accepted at those meetings. The Department will provide recommendations based on public comment, and the Commission would go directly into the deliberation and decision-making phase. The only exception to that process would be if, based on public comment, a significant amendment was recommended to the tentatives. At that point, the Commission could decide whether they wanted to entertain comments on the amendment from the floor.

The policy drafted by the FWP Legal Unit to formalize the process is as follows.

*The Commission values public input and will request public comment on applicable agenda items during regularly scheduled commission meetings. Typically, the request for public comment will come immediately following the Montana Department of Fish, Wildlife & Parks' (Department) briefing and recommendations on the agenda item. Any interested persons from the public will be offered the opportunity to comment on the proposal and the Department's recommendations. The Commission reserves the right to limit length of comment due to concerns of time and fairness. The Commission will close public comment after all interested persons have had the opportunity to speak and begin deliberations. During deliberations, the Commission may ask questions of the department or persons who commented from the public. The Commission will then take executive action.*

*In view of the extensive opportunity for public comment at meetings across the state on hunting, fishing and trapping regulations, and as a matter of equity for citizens who cannot attend the commission meeting, when making final decisions on hunting, fishing and trapping regulations, the Commission will not open public comment unless a significant amendment to the tentative proposal is brought forth by the department. Any comment taken will be limited to the amendment only.*

*Action: Colton moved and Vermillion seconded the motion to adopt the policy to close public comment during the final fishing, hunting and trapping season setting meetings except when considering a proposed amendment to the tentative proposal previously adopted, and then the Commission will allow comment on that amendment only.*

Chairman Doherty asked for public comment.

Rod Bullis asked for clarification on the exception portion of the policy relative to the hunting, fishing and trapping agenda items.

Smith explained that when the Commission adopts tentative hunting, fishing or trapping regulations, a specified comment period will be defined with the deadline preceding the meeting date of when the final decision would be made to allow the Department sufficient time to summarize the comments. There will not be a public comment period at the meeting when the Commission takes final action. All public comment would need to be provided prior to the deadline. Public comment will be accepted on tentatives.

*Action on Motion: Motion carried.*

**11. Recognition Award to Alan Charles for 10-Years of Service to FWP.** Director Hagener expressed appreciation to Alan Charles for his 10 years of dedicated service to Fish, Wildlife & Parks.

He gave a brief overview of his accomplishments, and presented him with a Montana Silversmith belt buckle.

**12. Recognition of Charlie Sperry, Becky Dockter, and Becky Price for Commercial Use Rule Efforts.** Director Hagener recognized Charlie, Becky, and Becky for their dedicated and intensive work on the commercial use regulations. Chris Smith, Chief of Staff, and Commissioner Colton also acknowledged the three for their hard work, and thanked them for all of their efforts. Chairman Doherty acknowledged them for their teamwork in bringing the public and Department together in developing this final rule

**13. Legislative and Budget Update - Informational.** Chris Smith, FWP Chief of Staff, presented an overview of the budget, then briefed the Commission on legislative activities. At last count there were 83 resource-related bills that FWP is tracking, as well as several administrative bills related to personnel management.

Of the nine FWP-requested pieces of legislation that were introduced, six were passed by one house and have been transmitted to the other. Those include

HB 38 – Would authorize the FWP Commission to issue reduced-priced licenses for antlerless moose, cow or calf bison and adult ewe mountain sheep for management purposes. Eliminates prerequisite licenses necessary for resident and nonresident second elk license. Rep. Barrett offered an amendment to the bill, which FWP supported, that eliminated the prerequisite for a second elk license that you had to have an elk A license.

HB51 – Would eliminate state administration of the Montana Conservation Corps by repealing obsolete statutes that place the Corps within the Parks Division of FWP.

HB115 – Would revise and clarify the requirements for the publication of hunting, fishing, trapping and land use regulations, and special season closures that are adopted by the FWP Commission.

SB44 – Implements a recommendation of the PL/PW by adding wild buffalo, antelope and mountain lion to the list of big game licenses that may be issued through SuperTag drawings.

SB126 – Would repeal the termination of the Future Fisheries improvement, bull and cutthroat trout enhancement programs and authorize FWP to continue to fund and implement projects to restore and enhance fisheries habitat.

SB143 – Revises FWP laws pertaining to the illegal use of alcohol and drugs while boating or sailing. Establishes penalties for boating under the influence. Authorizes FWP wardens and park rangers to enforce laws related to boating under the influence.

Other bills discussed were:

SB128 – Would allow FWP to change water rights that it holds in fee simple to instream flow purposes on no more than 12 stream reaches. Provides criteria to be followed by FWP when changing an appropriation right or leased water right to instream flow purposes to ensure that the change will not adversely affect other water right holders. Extends sunset to June 30, 2019. Pending exec action in Senate Committee

SB58 – Would repeal the termination date regarding the designation of prairie dogs as non-game wildlife, allowing continued coordinated management of prairie dogs as non-game and affirms landowners' prerogative to control prairie dog concentrations on private lands. Tabled in the Senate Fish and Game Committee

HB71 – Would require the completion of a Trapper's Safety and Education Course as a prerequisite to the issuance of a trapper's license to Montana residents 12 years of age or older. Would exempt those who had purchased a trapper's license prior to the passage of the legislation. Passed House floor, but then the bill was referred to the House Appropriations Committee.

SB224 – Authorizes FWP wardens and park rangers to enforce laws related to minors in possession of intoxicating substances, misdemeanor possession of dangerous drugs, disorderly conduct and a public

nuisance on lands owned or operated by FWP and on other state lands pursuant to an agreement with the land management agency as well as on public waters. Passed the Senate and was transmitted to the House

SB100 – Revises the law relating to outfitting without a license, defines outfitting, revises penalties and provides for additional sentencing conditions that may be applied for certain violations. Pending executive action in the Senate Fish & Game committee

Four bills are referred to as the “Poacher Package”:

SB100 - Revises the law relating to outfitting without a license, defines outfitting, revises penalties and provides for additional sentencing conditions that may be applied for certain violations.

SB115 - Directs that all money collected by courts as restitution for the illegal killing or the possession of certain wildlife be credited to FWP for Remedial Hunter Education and enforcement.

SB205 - Would exempt game warden positions from the imposition of vacancy savings when establishing the FWP budget.

HB226 - Prohibits the holder of a replacement hunting license from making the replacement license available for use by another person.

HB171 is categorized as a “try before you buy” proposal that would allow a person over the age of 16 who has not taken hunter education to hunt for one year under the direct supervision of a licensed hunter over the age of 25. It was passed by the House and transmitted to the Senate.

HB613, referred to the Families Afield Bill, would allow 9, 10, and 11 year olds to hunt upland game birds, waterfowl, antlerless deer or turkeys under direct supervision of an adult over 25 years of age. At age 12, they would have to take Hunter Education.

SB78, a stream access bill, was intended to codify the Attorney General’s opinion that clarify issues related to under what circumstances a landowner could build a fence within the public easement across the stream by a bridge. The bill was amended and transmitted to the House.

Yet another bill being drafted is intended to codify Supreme Court rulings related to stream access law. Several bills have been introduced related to water adjudication.

HB284, relative to Mornony Dam, has been tabled, but there are ongoing negotiations.

HB264 would statutorily establish allowing 2 fishing rods in any lake or reservoir.

The Governor has proposed a \$15 million appropriation to purchase additional state parks and fishing access sites. Several bills were introduced suggesting how and where the money should be spent - all of those bills have been tabled. Last week the House Appropriations cut the \$15 million down to \$5.5 million.

Several bills relate to making moose, sheep, or goat licenses a once in a lifetime bag limit.

There are bills to establish waiting periods for special elk tags, and to restrict the application for moose, sheep and goats to 16-year old hunters.

HB364 and HB484 are related to wolves and game damage compensation.

There are a series of bills that have been introduced related to providing free or reduced priced licenses, and there are bills relating to disabled hunters and off road vehicles.

#### **14. 2007 Spring Turkey Regulations and Quotas – Final.**

Three recommended changes to the tentatives.

- Increase spring permit numbers in Region 1 West Clark Fork from 200 to 300

- Increase spring permit numbers in Region 1 Lincoln Country from 300 to 400

- Close portion of Mineral County Region 2 due to recent transplant

*Action: Workman moved and Vermillion seconded the motion to approve the final 2007 Spring Turkey Regulations and Quotas.*

Chairman Doherty asked for public comment. There was none.



*Action on Motion: Motion carried.*

**15. 2007 Black Bear Quotas – Final.**

No recommended changes to the tentatives.

*Action: Colton moved and Vermillion seconded the motion to approve the final 2007 Black Bear quotas as recommended by the Department. Motion carried.*

**16. 2007 Mule Deer Season Adjustments in R-5 Due to Forest Fires – Final.**

No recommended changes to the tentatives.

*Action: Colton moved and Workman seconded the motion to approve the final Region 5 2007 Mule Deer Season Adjustments as recommended by the Department. Motion carried.*

**17. 2007 Bighorn Sheep HD340 Closure – Final.**

No recommended changes to the tentatives.

*Action: Colton moved and Workman seconded the motion to approve the final 2007 Bighorn Sheep HD340 closure. Motion carried.*

**18. 2007 Game Damage Permit Authorizations – Final.**

One recommended change to the tentatives in Region 6 due to an increase in elk populations.

Increase the Region 6 game damage elk license quota from 200 to 500

*Action: Workman moved and Doll seconded the motion to approve the final 2007 Game Damage Permit Authorizations as recommended by the Department.*

Chairman Doherty asked for public comment. There was none.

*Action on Motion: Motion carried.*

**19. German Gulch Land Acquisition adjacent to Fleecer WMA – Endorsement. Ken McDonald, FWP Wildlife Division Administrator,** explained this proposal is to acquire, by donation, a 26-acre parcel along German Gulch Creek in Silver Bow County. The property is contiguous with FWP's Fleecer Mountain Wildlife Management Area (WMA), and upon acquisition would be managed as part of that WMA. The area is heavily used by moose and other wildlife, and the property contains the confluence of German Gulch Creek and two tributary streams.

The George Grant Chapter of Trout Unlimited negotiated a purchase agreement with the landowners, the Layton family, and has received a grant for the purchase from the Montana Fish & Wildlife Conservation Trust to purchase the property at its appraised value of approximately \$40,000. The Chapter of TU will then donate the land to FWP. The Layton family desires that this property remain in an undeveloped condition for public use and wildlife habitat.

*Action: Vermillion moved and Workman seconded the motion to authorize the Department to pursue fee acquisition of the German Gulch property as a potential addition to the Fleecer Mountain Wildlife Management Area.*

Chairman Doherty asked for public comment. There was none.

*Action on Motion: Motion carried*

**20. Keep Cool Hills Management Area near Lincoln (Sieben Ranch) – Tentative.** Alan Charles, FWP Landowner Sportsman Coordinator, stated that this biennial rule would allow FWP to enter into a cooperative management agreement between the three landowners (Sieben Ranch, DNRC, and the Nature Conservancy) to manage recreational use on 15,000 acres of land northeast of Lincoln. This area has had unmanaged recreational use for years, and last year John Mr. Baucus spoke to FWP about resource damage. He asked if FWP would work with him and the other landowners to provide managed use of this area. If not, their only alternative was to close the lands entirely to recreation.

FWP worked with the Sieben Ranch (John and Nina Baucus), DNRC, and the Nature Conservancy to develop this proposal. It was necessary to craft this as a biennial rule because it expands beyond what can be done with block management. The rule lays out a plan for year-round recreational use over the next two years.

One change has been made to the proposed rule. Initially it read under Item Number 3 “Target shooting and discharge of firearms is prohibited on Sieben Ranch Company land from June 1 through October 1, annually”. The intention of the rule was to prohibit target shooting on the roadway but not to prohibit the ability to allow upland game bird hunting during a lawful season, so it has been amended to read “Target shooting with firearms is prohibited on Sieben Ranch Company land from June 1 through October 1, annually”. If this rule is adopted, it will be brought back after two years with any needed amendments or revisions.

John Baucus said there has been a growing problem with recreational use. They would like to see some access by the public, but management is necessary. He appreciates the Commission and Department’s time and efforts in working with them to correct the problem. He’s comfortable with the rule, including the amendment.

Doll asked why people are upset with this. He said it looks like this provides all the opportunity in the world.

Baucus said the public is used to not having any rules and regulations – it has been this way forever and they just assume it is public land to do with what they want. Last year a local bar held a poker run on their property, involving approximately 400 people, and never asked for permission. He said people just show up and camp wherever they want, and if the ranch wants to move their own livestock, they have to ask people to leave, and some refuse.

Vice-chair Colton asked for public comment.

Rod Bullis, Lincoln resident, said the people around Lincoln are fortunate. He is thankful the rules allow the opportunity to go on their land. He said there is not a place on this entire site that is more than two miles from an open road. There are about 100 head of elk that use that area year round, as well as moose, mule deer, and big horn sheep. He supports the rule. He appreciates that the landowners have provided their land for snowmobile trails, for fire camps, and so forth. It is unfortunate that a few people in the community have abused the land.

*Action: Colton moved and Workman seconded the motion to approve the tentative Keep Cool Hills Hunting Access and Recreation Management Area Biennial Rule as amended.*

Colton expressed appreciation to the Baucus family for working with FWP to keep the area open.

*Action on Motion: Motion carried.*

**21. Timber Management Projects – Lone Pine and West Shore State Parks.** Joe Maurier, FWP Parks Division Administrator, explained that timber management for fire reduction is a critical maintenance activity in several state parks. There are currently two projects in progress, one in Lone Pine State Park and one in West Shore State Park. Diseased and dying trees will be removed from both parks, slash will be removed, and those affected areas will be reseeded with grass. FWP will trade the useable timber for the cost of removal of the trees.

*Action: Workman moved and Colton seconded the motion to approve the prescribed timber management projects at Lone Pine and West Shore State Parks.*

Chairman Doherty asked for public comment. There was none.

*Action on Motion: Motion carried*

**22. Lewis & Clark Heritage Greenway Conservation Easement at Giant Springs – Final.** Joe Maurier, FWP Parks Division Administrator, explained that in 1999, the Montana Power Company granted an open-space, 2,400-acre conservation easement to FWP. This easement runs along the north shore of the Missouri River across from Giant Springs State Park downstream for approximately eight miles to Morony Dam. PPL Montana agreed to enlarge this open space easement along the south shore of the Missouri River, beginning at the east edge of Giant Springs State Park near Rainbow Dam and extending downstream. This area is approximately 170 acres and includes 1.5 miles of river frontage. The terms of the easement preclude all uses other than those associated with power generation and will permanently protect the native grassland and view shed along the south shore of the river. This easement, approved by the Commission in September of 2006, will also allow public access along the managed trail system winding along the river. Public comments are supportive of this easement.

Doherty said there has been a bit of controversy regarding the runoff in a coulee outside of Malmstrom Air Force Base, and he inquired if that might be the same coulee as is part of this easement. Cascade County is concerned because Malmstrom is not controlling the runoff. He said if it is the same coulee, FWP may want to look into management practices on this. Maurier will look into it.

*Action: Doherty moved and Workman seconded the motion that the Department of Fish, Wildlife & Parks accept the approximately 170-acre conservation easement on the south shore of the Missouri River from PPL Montana.*

Chairman Doherty asked for public comment. There was none.

*Action on Motion: Motion carried*

**23. Ulm Pishkun Easement – Final.** Joe Maurier, FWP Parks Division Administrator, explained that this proposal is for acquisition of a 418-acre easement from DNRC, who acquired it from a private owner in 2006. This parcel would enhance the Park, as it is an important site for interpretation of the influence bison had on the culture of Native Americans, and it is anticipated that artifacts will be discovered there as well.

FWP has been working with DNRC to acquire this easement through their land-banking program. FWP would have purchased this in fee title, but the budget would not support the purchase, so FWP entered into an agreement with DNRC to purchase it over a period of time. DNRC received approval from the Land Board, and the Environmental Assessment received many supportive comments.

The agreement with DNRC is that FWP will pay them 3.5% of the value of what the total cost would be (\$334,000), which amounts to \$11,000 per year for a lease. FWP will pay that to them on a yearly basis up to five years. Any money that is paid toward the lease will come off the purchase price. It is a permanent easement that will last forever.

FWP will work toward maintaining the integrity of the site. Installation of fences will keep cattle out of the jump area.

*Action: Doherty moved and Workman seconded the motion to approve the Department of Fish, Wildlife & Park's proposal to proceed with negotiations of a permanent easement with DNRC for the 418-acre parcel at the top of the Jump at Ulm Pishkun State Park.*

Chairman Doherty asked for public comment. There was none.

*Action on Motion: Motion carried*

**24. Clarkstone FAS Acquisition near Laurel – Endorsement.** Chris Hunter, FWP Fisheries Division Administrator, explained that this proposed fishing access site consists of a 27-acre parcel located at the confluence of the Clarks Fork and Yellowstone Rivers. The land includes approximately ¼ mile of river frontage and would provide a boat-launching site for both rivers. Existing access sites include the Buffalo Mirage FAS eight miles upstream, Riverside Park three miles upstream, and Duck Creek FAS five miles downstream. This acquisition was previously approved by the Commission in September of 2003, but due to an ownership change, and the passage of time, FWP desires to seek renewed Commission endorsement.

This site is in the Yellowstone River floodway, deeming it unsuitable for permanent structures, however it can be purchased by a government agency for use as a recreational access site. If the Commission approves pursuit of this acquisition, an environmental assessment will be prepared for public comment.

*Action: Colton moved and Workman seconded the motion to pursue purchase of the Clarkstone property for use as a fishing access site.*

Chairman Doherty asked for public comment. There was none.

*Action on Motion: Motion carried.*

**25. Sterling Ranch FAS Lease between Holter Dam and Craig – Endorsement.** Chris Hunter, FWP Fisheries Division Administrator, stated that the Sterling Ranch owns a considerable share of land along the east side of the Missouri River downstream from Holter Dam. Several years ago, FWP entered into a private land fishing access site lease with them, which is a program similar to block management, where landowners allow public access and receive limited compensation from FWP to help alleviate impacts to their land.

Hunter said this stretch of river receives a tremendous amount of use. Two sites that receive especially heavy use are Lone Pine FAS and Bull Pasture FAS. FWP has been talking with the Sterling Ranch about leasing those sites so an infrastructure could be put in place to protect them. The Ranch wishes to lease the sites to FWP as they are not able to keep up with them. Developments would include latrines at both sites, and a trail at Lone Pine, but no boat ramps due to the steepness to the water. The length of the lease would have to be long enough to justify the capital investment.

*Action: Doherty moved and Colton seconded the motion that FWP continue negotiations with the Sterling Ranch to obtain the fishing access site leases at Lone Pine FAS and Bull Pasture FAS.*

Chairman Doherty asked for public comment. There was none.

*Action on Motion: Motion carried.*

**26. Kona Bridge FAS Lease / Development West of Missoula – Endorsement. Chris Hunter, FWP Fisheries Division Administrator,** explained this proposal is for FWP to manage and develop 2.5 acres of land owned by Missoula County for use as a Fishing Access Site. The proposed Kona Bridge FAS is located west of Missoula on the Clark Fork River, and would remain under county ownership, but management authority as a FAS would be transferred to FWP through a lease. Site development would be jointly funded by Missoula County and FWP, with Missoula County doing the development. New developments would include a paved interior road and parking area, concrete boat ramp, latrine, fencing and signage.

Fishing pressure is great along this stretch of the river, and the addition of this fishing access site would help to alleviate pressure at other access sites.

Additionally, this site is believed to be near the original crossing where Lewis and Clark crossed when exploring the Clark Fork River.

*Action: Workman moved and Colton seconded the motion that FWP continue to work with Missoula County on developing and managing the Kona Bridge FAS in Missoula County west of Missoula.*

Chairman Doherty asked for public comment. There was none.

*Action on Motion: Motion carried.*

**27. Old Harper's Bridge FAS Acquisition West of Missoula – Endorsement. Chris Hunter, FWP Fisheries Division Administrator,** explained that this 3-acre site is approximately four miles downstream from Kona Bridge, and twenty miles upstream from the Petty Creek FAS. The bridge that was there has been destroyed, but the area is still heavily utilized, causing trespass issues. River users are parking along the county road and blocking traffic and neighbors. Getting boats in and out of the river is problematic because of the old bridge abutment that is still located at the end of the county road. A new FAS site in this location will solve some conflict issues that currently exist and Missoula County would proceed with removing the old bridge abutments

New developments would include a road, parking, latrine, and a boat ramp. This site would be an asset to the fishing public.

*Action: Workman moved and Colton seconded the motion to direct the Department to continue pursuit of the acquisition of the Old Harper's Bridge Fishing Access Site in Missoula County west of Missoula.*

Chairman Doherty asked for public comment. There was none.

*Action on Motion: Motion carried.*

**28. Dearborn Bridge FAS Lease On Missouri River in L&C County – Endorsement.** **Chris Hunter, FWP Fisheries Division Administrator,** explained that this site is owned by Montana Department of Transportation, and has been used by floaters and fisherman to access the Missouri River for quite some time. A boat ramp exists but is in very poor condition. A small highway pullout serves as a parking area near the boat ramp, but is inadequate for the amount of use the site receives. Recreationists must make unsafe U-turns on the highway to park trucks and trailers after unloading them. The lease from MDT will include both sides of the highway encompassing the existing boat ramp and an area across the highway large enough to develop additional parking.

Five other 5 FASs (Stickney Creek, Spite Hill, Dearborn, Eagle Island, and Mid Canon) are located within a three-mile area on both sides of the river. There is a great deal of access pressure on this reach of the Missouri River.

*Action: Doherty moved and Colton seconded the motion that FWP continue lease negotiations with MDT for the Dearborn Bridge FAS on the Missouri River in Lewis & Clark County.*

Chairman Doherty asked for public comment. There was none.

*Action on Motion: Motion carried.*

**29. DNRC Fishing Access Site Lease between Cascade and Ulm – Endorsement.** **Chris Hunter, FWP Fisheries Division Administrator,** explained that FWP is considering leasing 22 acres along the Missouri River from the Department of Natural Resources and Conservation to develop a fishing access site. Access to this site is gained from the old highway that connects Cascade and Ulm. The property had previously been leased as a home site, but the house has been removed. There is no fence separating the lease from the neighbor's property, consequently the neighbor's livestock roams freely over the DNRC property. Site control management would include fencing as well as extensive integrated weed control measures.

As the closest FWP access sites are Dunes FAS located 10 miles downstream, and Pelican Point FAS located seventeen miles upstream, this site would provide a good halfway point for floaters. Additionally, the town of Cascade is working in conjunction with PPL to develop a public fishing access at its current transfer site location. When completed this site will be 7.7 river miles upstream of the proposed DNRC lease.

DNRC released an Environmental Assessment when the site was changed from a home/cabin site to a public recreation area. They received overwhelming public support for conversion of this property to a fishing access site.

*Action: Doherty moved and Doll seconded the motion that FWP continue to work on the proposed lease with DNRC for the development of a fishing access site between Cascade and Ulm.*

*Discussion on Motion:* Many sites are used for duck hunting - it is important not to impair that sport. Monetary negotiations do not begin until interest has been expressed on both sides, and Commission approval has been acquired.

Chairman Doherty asked for public comment. There was none.

*Action on Motion: Motion carried.*

**30. Open Microphone – Public Opportunity to Address Additional FWP Issues.**

Michael Gilles said he is a hunter with a disability and has a permit to shoot from a vehicle. He feels it would be a good idea that people with vehicle permits be allowed to shoot a cow elk in the same areas as the youth are allowed to hunt in.

Hagener said the Department is looking into various ideas for these types of situations. After the legislative session concludes, the Department will look into this more intensively.

Jack White said he drew a 2006-2007 tag to hunt bison in West Yellowstone, and had “zero opportunity.” He said the literature provided by FWP regarding the hunt did not state he would have no opportunity to kill one – it needs to indicate that there may not be any potential to hunt. He said the Department should buy back the tag when there is no opportunity – opportunity needs be provided to be a hunt. Zone 1 should be restricted to all travel. The hunt needs to start the day the bison come out of the Park.

Hagener replied that FWP cannot guarantee an animal to shoot.

*Action: Workman moved and Colton seconded the motion to adjourn the meeting. Motion carried.*

Meeting adjourned at 3:00 p.m.

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**Steve Doherty, Chairman**

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**M. Jeff Hagener, Director**